IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3934 of 1987

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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ARVINDKUMAR CHANDULAL PATHAK - Petitioner
Versus
STATE OF GUJARAT & 4 - Respondents

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Appearance :
NONE for Petitioner.
MR LB DABHI, AGP for Respondent Nos. 1 & 2.
MR SP HASURKAR for Respondent(s) : 3 - 4.
NOTICE SERVED for Respondent(s) : 5,

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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 25/01/2006

ORAL JUDGMENT

1.The petitioner has filed this petition under Article 226 of the Constitution of India praying for quashing and setting aside the letter dated 04.04.1987 and also praying for the declaration that the order of the High Court does not require any sanction and further prayed for the direction to the Director of Accounts and Treasuries to treat and consider the petitioner in service and on duty from June, 1969 till the date of filing of the petition for all purposes, viz. Pay, pension and leave.

2.On 10.08.1987, this Court has passed an order after hearing the petitioner appearing as party-in-person and directed the petitioner to produce the orders of the Tribunal and that of the High Court along with the petition within one week from the said date. Since the said

orders were not produced within one week, directions were again issued on 17.08.1987. The petition was thereafter admitted and rule was issued on 26.12.1988. However, those orders are still not produced on record.

3.Mr. L.B. Dabhi, learned Assistant Government Pleader has placed on record the affidavit-in-reply filed by one Mr. Bharatkumar M. Patel, Education Inspector, DEO, Bharuch wherein it is stated that the petitioner expired on 20.06.1994. More than 11 years have passed and still, the legal heirs are not brought on record. The petition could have been dismissed on this solitary ground of having been abated. However even on merits also, the grievance raised by the petitioner does not survive by efflux of time. In para 7 of the affidavit, it is stated that the petitioner has expired on 20.06.1994. The death certificate was annexed with the said affidavit. The petitioner's wife

Smt. Shakuntlaben had also expired on 20.10.1993. The death certificate was annexed with the said affidavit. The petitioner has two sons, namely, Vijay Arvindkumar Pathak and Bharat Arvindkumar Pathak. The birth date of Vijay is 01.04.1959. The copy of school leaving certificate of Vijay is annexed with the affidavit. The identity card of Bharat which has been issued by the Election Commission on 04.02.2004 is also annexed with the affidavit and it has been mentioned in the said identity card that on 01.01.2002, the age of Bharat was 39 years. The birth date of the present petitioner is 05.01.1933. He retired on superannuation of 58 years on 05.01.1991 but due to the end of term, he retired on 31.05.1991. As the case was pending before this Court, the provisional pension has been granted to the petitioner of Rs. 1100/- and gratuity of Rs. 32,670/- was granted by an order dated 28.11.1991.

4.In view of the aforesaid reply and in view of the fact that the petitioner as well as his wife have expired and both their sons were major at the time of their death, nothing survives in the petition. The petition is accordingly disposed of. Rule discharged without any order as to costs.

[K.A. PUJ, J.]

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